**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION NO.3188 OF 2006**
**IN**
**SUIT NO.2675 OF 2006**

Shehab Bohra & Anr. ...Plaintiffs
V/s.
Rukaiya A. Kanjiwala & Ors. ...Defendants

Shri.P.M. Havnur for Plaintiffs.
Ms.Madhavi Tavanandi for Defendants.

**CORAM : S.A.BOBDE, J.**
**DATED : 15/02/2007**

P.C.:-

1. Plaintiffs have sought a declaration that they own flat No.1 to 4 and they have also sought possession of those flats. By this notion of motion, plaintiffs seek appointment of a receiver and or injunction.

2. Plaintiffs' case is that flat No.1, 2 and 4 in the Sajan Building, 2nd Perkhan Road, New Nagpada Road, Byculla, Mumbai-400 008 are in possession of

defendants No.1 to 5 who are apparently running a Guest House. Plaintiffs state that they have no privity of contract or relationship with the defendants who are not entitled to use the building, which is owned by the plaintiffs for Guest House. The learned counsel for the plaintiffs points out that defendants have even obtained license under the Bombay Shops & Establishments Act, 1948 and apparently some of them even claim to be owners and one of them has even given a no objection as if he is an owner to one amongst them.

3. Learned counsel for the defendants submits they were inducted into the building by Razia Mehmood Fakih who was inducted into the building by one Hatimbhai Chataiwala who is the original tenant of flat No.1. Defendants clearly have no documents to demonstrate that they have been validly and legally inducted in the premises. There is no explanation in respect of occupation of flat No.2 and 4 at all. There is no statement regarding nature of their occupation of flat No.2 & 4.

4. Peculiarly, the defendants now state that they

are not in possession of flat No.1, 2 and 4 since last one and half years. This stand taken by the defendants is indeed strange. In fact acting on basis that they are in possession this court passed an order of injunction restraining disposing of, alienating, encumbering and/or creating third party rights in respect of the suit property. Prima facie, this is a misrepresentation to the court.

5. In the circumstances, it is appropriate in the interest of justice to grant interim relief in terms of prayer clause(a).

6. Notice of motion is disposed of accordingly.

**(S.A.BOBDE, J.)**